



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: EA/00364/2016

THE IMMIGRATION ACTS

Heard at Field House

On 2 March 2018

**Decision & Reasons
Promulgated
On 28 March 2018**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR NOUMAN RASHID

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr W Malik, Solicitor instructed by WH Malik Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan. He seeks to appeal against a decision dated 3 December 2015 refusing to grant him an EEA residence card. For the purposes of such an appeal he is to be regarded as an extended family member.
2. The appeal came before Upper Tribunal Judge Martin, sitting as a judge of the First-tier Tribunal, on 4 May 2017. At that time the decision in **Sala (EFMs: right of appeal) [2016] UKUT 00411 (IAC)** was then in existence. That provided that there was no right of appeal to the First-tier

Tribunal for that category of member. Thus it was that the appeal was dismissed for want of jurisdiction.

3. The situation has now changed in that the decision of **Sala** has been overtaken by the decision in **Khan v SSHD [2017] EWCA Civ 1755**. Thus it would appear that the First-tier Tribunal does indeed have the jurisdiction to determine such appeals.
4. In the circumstances the decision of Tribunal Judge Martin shall be set aside and the matter sent back to the First-tier Tribunal to determine the merits of the appeal. It will be for the First-tier Tribunal in those circumstances to give any such directions for hearing as it may determine.

Notice of Decision

The appeal is allowed to the extent that there is to be a substantive hearing.

No anonymity direction is made.



Signed

Date 26 March 2018

Upper Tribunal Judge King TD